

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUN 21 2007

3 M.
TIME A.M.

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WELDON DAVIS,

Plaintiff,

REPORT AND RECOMMENDATION

05 CV 4341 (RJD)(LB)

-against-

BOARD OF EDUCATION,

Defendant.
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BLOOM, United States Magistrate Judge:

8/6/07
Granted. Recommendation
trans adapted.
s/ Judge Raymond J. Dearie

The instant action was referred to the undersigned for all pretrial purposes. On April 17, 2007, I granted plaintiff's request to reschedule his April 13, 2007 Court ordered deposition and ordered him to appear for his rescheduled deposition on May 21, 2007. By letter to the Court dated May 30, 2007, counsel informs the Court that plaintiff failed to appear for his rescheduled deposition on May 21 as ordered. Plaintiff was explicitly warned that I would recommend that his case should be dismissed if he failed to appear for his deposition on May 21. As plaintiff failed to appear as ordered, it is respectfully recommended that plaintiff's case should be dismissed.

BACKGROUND

Plaintiff filed this *pro se* action pursuant to the American with Disabilities Act, 42 U.S.C. § 1201 *et seq.* on September 1, 2005 against the New York City Department of Education (the "defendant") alleging that defendant discriminated against him when it failed to hire him because of his status as a recovering drug addict. Plaintiff's application to proceed *in forma pauperis* was granted, and the United States Marshals Service served defendant. Defendant requested and was

Chm